

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOSHUA MASSIATE-REYES

v.

ANTHONY WEYNE
AND WEB INDUSTRIES, LLC

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§
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§

Civil Action No.: 5:17-cv-553

NOTICE OF REMOVAL

Defendants, Anthony Weyne Barnaby (incorrectly sued as Anthony Weyne) and W.E.B. Industries, LLC, file their Notice of Removal of this dispute to the United States District Court for the Western District of Texas, San Antonio Division, and respectfully would show as follows:

I. GROUNDS FOR REMOVAL

1. This case is removable to this Court based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).
2. Plaintiff, Joshua Massiate-Reyes, is a Texas resident of Bexar County.
3. Anthony Weyne Barnaby is a citizen of Florida.
4. W.E.B. Industries, LLC has two members who are both citizens of Florida and the business has its principal place of business in Florida.
5. Plaintiff pleads in his Original Petition in the state court action removed here that his damages “are more than \$1,000,000.00” so it is clear the amount in controversy is in excess of \$75,000, excluding interest and costs.

II. PENDING STATE SUIT

6. On April 25, 2017, Plaintiff filed a civil action against Defendants herein styled *Joshua Massiate-Reyes v. Anthony Weyne and WEB Industries, LLC*, in the 37th Judicial District

Court, Bexar County, Texas with Cause No. 2017CI07501. This is an automobile/truck accident case.

7. The name and address of the court from which the case is being removed is: 37th Judicial District Court, Bexar County, Texas, 100 Dolorosa, 4th Floor, San Antonio, Texas 78205.

III. STATE COURT DOCUMENTS

8. The following documents are attached to this Notice of Removal:

Exhibit "A" Plaintiff's Original Petition

Exhibit "B" Proof of Service

Exhibit "C" Docket Sheet

Exhibit "D" List of all counsel of record, including addresses, telephone number, and the parties they represent, respectively

IV. TIMING OF REMOVAL

9. Anthony Wayne Barnaby was served with Plaintiff's petition on or about May 25, 2017 and May 26, 2017. This Notice of Removal is being filed within 30 days of service of the petition and is timely filed under 28 U.S.C. § 1446(b).

V. VENUE

10. Under 28 U.S.C. § 1441(a), venue for a removed action is proper in this Court as the 37th Judicial District Court of Bexar County, Texas, where the state action is pending, is located within this district and division.

VII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT

11. As the removing party, Defendants will give Plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. § 1446(d).

12. Defendants will also file a copy of this Notice of Removal with the 37th Judicial

District Court of Bexar County, Texas, where the state court action is currently pending, as required by 28 U.S.C. § 1446(d).

VIII. JURY DEMAND

13. Defendants hereby request a trial by jury pursuant to FRCP 38.

IX. ANSWER

14. Defendants have not filed any responsive pleadings in the state court action, except the Notice of Removal as required by the FRCP. Defendants will file an Answer to Plaintiff's lawsuit in this Honorable Court.

X. PRAYER

For these reasons and in conformity with 28 U.S.C. § 1446, Defendants respectfully remove the civil action styled *Joshua Massiate-Reyes v. Anthony Weyne and WEB Industries, LLC*, in the 37th Judicial District Court, Bexar County, Texas with Cause No. 2017CI07501. Defendants pray for such other and further relief, both general and special, at law and in equity, to which they may be justly entitled.

Respectfully submitted,

/s/ Les Pickett

Les Pickett

Federal I.D. No. 14306

State Bar No. 15980520

OF COUNSEL:
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing has been served upon all counsel of record via facsimile on this the 21st day of June, 2017.

Via Facsimile: (210) 735-4167

Candelario S. Trevino, Jr.

GENE TOSCANO, INC.

846 Culebra Road, Suite 104

San Antonio, Texas 78201

/s/ Les Pickett

Les Pickett